

Serial No. 09/784,801  
Amdt. dated January 9, 2004  
Reply to Office Action of April 8, 2004

Attorney Docket No. PF02049NA

### REMARKS/ARGUMENTS

Claims 1, 2, 4 through 9, and 11 through 16 remain in this application. Claims 1, 8, and 11 through 14 have been amended.

Claims 1, 2, 4 through 9, and 11 through 16 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 6,366,780 to Obhan, et al. ("Obhan, et al. patent") in view of U.S. Patent No. 6,330,451 to Sen, et al. ("Sen, et al. patent"). Also, claims 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Obhan, et al. patent in view of Sen, et al. and U.S. Patent No. 6,324,399 to Salmivalli, et al. ("Salmivalli, et al. patent").

Claims 1 and 8 as amended provide, *inter alia*, a two-step process for providing communication services to a plurality of communication devices over one or more radio frequency channels. An operator specifies a desired minimum availability to a resource controller, and the resource controller picks a system parameter, uses an algorithm to calculate a boundary for the system parameter, and controls the system parameter in the communication resource. It is important to note that claims 1 and 8 as amended specify that the minimum probability is in the form of a percent availability figure. Examples of the percent availability figure are provided at page 15, line 4, and page 16, line 17, of the specification.

In contrast, the Obhan, et al. patent, the Sen, et al. patent and the Salmivalli, et al. patent do not describe or suggest the two-step process, particularly the minimum probability is in the form of a percent availability figure, of amended claims 1 and 8. Therefore, claims 1 and 8

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distinguish patentable from the Obhan, et al. patent, the Sen, et al. patent, the Salmivalli, et al. patent, and any combination of these patents.

Claims 2, 4 through 7, 9, and 11 through 16 depend from and include all limitations of independent claims 1 and 8 as amended. Therefore, claims 2, 4 through 7, 9, and 11 through 16 distinguish patentably from the Obhan, et al. patent, the Sen, et al. patent, the Salmivalli, et al. patent and any combination of these patents for the reasons stated above for amended claims 1 and 8.

In view of the above, reconsideration and withdrawal of the rejections of claims 1, 2, 4 through 9, and 11 through 16 are respectfully requested.

#### CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicant respectfully requests

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that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

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Date